IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

LOGIE W. TALLEY, *

Plaintiff *

Vs. *

THE HOUSING AUTHORITY *
OF COLUMBUS, GEORGIA,
*

Defendant *

Filed
U.S. District Court
Middle Georgia
04 AUG 10 AM 8:21

Case Number 4:04-CV-61-1

Civil Order Book 30, Page 2804

JUDGMENT

Pursuant to this Court's Order dated August 9, 2004, and for the reasons stated therein, JUDGMENT is hereby rendered in favor of Defendant. Plaintiff shall recover nothing of Defendant. Defendant shall also recover its costs of this action.

This 10th day of August, 2004.

Gregory J. Leonard, Clerk
"s/Gregory J. Leonard"

Timothy L. Frost, Deputy Clerk

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

FILED
U.S. DISTRICT COURT
MIDDLE GEORGIA
04 AUG -9 AM 10:02
"s/Elizabeth S. Long"
DEPUTY CLERK

LOGIE W. TALLEY, *

Plaintiff *

Vs. *

THE HOUSING AUTHORITY * CASE NO. 4:04-CV-61-1 (CDL)
OF COLUMBUS, GEORGIA, *

Defendant *

ORDER

The Court presently has pending before it Defendant's Motion for Summary Judgment and Plaintiff's cross-Motion for Summary Judgment. For the following reasons, the Court grants Defendant's Motion for Summary Judgment and denies Plaintiff's motion.

FACTS

The above captioned lawsuit arises from Defendant's condemnation of Plaintiff's property in 1994. Plaintiff contends that Defendant had no "public necessity" for condemning Plaintiff's

property, and his constitutional rights. Plaintiff seeks a return of the condemned property, damages for emotional distress, and an assessment of punitive damages against Defendant. Defendant contends that Plaintiff had an opportunity to contest the condemnation in the state court proceedings and is now precluded from re-litigating issues in this Court that were decided in those proceedings.

In 1994, Defendant brought a condemnation action in the Superior Court of Muscogee County, Georgia regarding property owned by Plaintiff and other condemnees. Plaintiff was served as one of the condemnees in that action. The condemned property was to be used for an urban renewal project authorized under Georgia law. A special master was appointed pursuant to Georgia law, and on June 24, 1994, awarded the condemnees the sum of $17,500.00 as the value of the property. The special master's award was made the order and judgment of the Superior Court of Muscogee County, Georgia, on August 1, 1994, and the proceeds were deposited with the clerk of court. Plaintiff attempted to appeal that judgment, but his appeal was dismissed as untimely. Subsequently, on June 20, 1997, Plaintiff filed a motion in the state court condemnation action

to set aside the August 1, 1994 judgment. Plaintiff's motion was denied.

Plaintiff filed the above captioned Complaint in this Court on May 21, 2004, almost ten years after the initiation of the condemnation actions. Plaintiff claims that the 1994 condemnation was unlawful and violated his constitutional rights. Plaintiff specifically complains that Defendant condemned his private property without any public necessity for doing so. In support of this argument, Plaintiff alleges that the Defendant sold the property in question on December 3, 1999 to private citizens who are using the property for private purposes.

DISCUSSION

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56 (c). The undisputed facts in this case establish that Plaintiff seeks to re-litigate in this federal court the same exact issues that were involved in the condemnation action giving rise to the judgment in the Superior

Court of Muscogee County, Georgia. Plaintiff cannot proceed in this Court for two reasons. First, this Court lacks subject matter jurisdiction of this case under the *Rooker-Feldman* doctrine. Second, even if this Court had jurisdiction over the subject matter of this case, Plaintiff's claims are precluded by *res judicata* principles.

The essence of the *Rooker-Feldman* doctrine is that "a United States District Court has no authority to review final judgments of a state court in judicial proceedings. Review of such judgments may be had only in the United States Supreme Court." *Narey v. Dean*, 32 F. 3d 1521, 1524 (11th Cir. 1994) (quoting *Dist. Of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983)) ; see also *Wood v. Orange County*, 715 F. 2d 1543, 1545-57 (11th Cir. 1983) (discussing *Rooker* and *Feldman* decisions). Although the *Rooker-Feldman* and *res judicata* doctrines are related, they are distinct. As explained by the Eleventh Circuit:

> The *Rooker-Feldman* doctrine asks: is the federal plaintiff seeking to set aside a state judgment, or does he present some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party? If the former, then the district court lacks jurisdiction; if the latter, then there is jurisdiction and state law determines whether the defendant prevails under principles of preclusion.

Narey, 32 F. 3d at 1525.
denied.

Plaintiff filed the above captioned Complaint in this Court on May 21, 2004, almost ten years after the initiation of the condemnation actions. Plaintiff claims that the 1994 condemnation [illegible] subject matter jurisdiction.[1]

Even if the Court had subject matter jurisdiction over this case, it is clear that Plaintiff would be precluded from litigating the issues that he seeks to litigate in this case. In resolving issues of claim and issue preclusion, this Court must apply Georgia law. See Matsushita Elec. Indus. Co., Ltd. V. Epstein, 516 U.S. 367, 375 (1996); see also 28 U.S.C. § 1738. Under Georgia law, "[a] judgment of a court of competent jurisdiction shall be conclusive between the same parties and their privies as to all matters put in issue or which under the rules of law might have been put in issue in the cause wherein the judgment was rendered until the judgment is reversed or set aside." O.C.G.A. § 9-12-40. In the present case. Plaintiff clearly put in issue in the state court action his position that Defendant did not have the legal authority to condemn his property. Moreover, even if he did not present that precise issue in the state

court action, he certainly had the opportunity to make that argument in those proceedings. Accordingly, he is precluded from asserting those claims in this federal action.[1]

CONCLUSION

It is clear that Defendant is entitled to judgment as a matter of law. Accordingly, Defendant's Motion for Summary Judgment is granted, and Plaintiff's Motion for Summary Judgment is denied.

IT IS SO ORDERED, this 9th day of August, 2004.

"s/Clay D. Land"
Clay D. Land
UNITED STATES DISTRICT JUDGE

[1] The Court recognizes that the Defendant did not assert lack of subject matter jurisdiction in support of its Motion for Summary Judgment. However, the federal courts always have the authority to determine whether the matters that are before them are subject to their jurisdiction.

United States Court of Appeals
For the Eleventh Circuit

No. 04-14703

District Court Docket No.
04-00061-CV-1-CDL-4

LOGIE W. TALLEY,

Plaintiff-Appellant,

Versus

THE HOUSING AUTHORITY
OF COLUMBUS, GEORGIA,

Defendant-Appellee.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
May 16, 2005, 3:20 PM
THOMAS K. KAHN
CLERK

Appeal from the United States District Court
For the Middle District of Georgia

JUDGMENT

It is hereby ordered, adjudged, and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.

Entered: May 16, 2005
For the Court: Thomas K. Kahn, Clerk
By: Gilman, Nancy

APPENDIX B

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
May 16, 2005
Thomas K. Kahn
Clerk

No. 04-00061-CV-1-CDL-4
Non-Argument Calendar

D.C. Docket No. 04-00061-CV-1-CDL-4

LOGIE W. TALLEY,

Plaintiff-Appellant,

Versus

THE HOUSING AUTHORITY
OF COLUMBUS, GEORGIA,

Defendant-Appellant.

Appeal from the United States District Court
For the Middle District of Georgia

(May 16, 2005)

Before EDMONDSON, Chief Judge, BIRCH and BARKETT,

Circuit Judges.

PER CURIAM:

Plaintiff-Appellant Logie W. Talley, appearing pro se, appeals the district court's grant of summary judgment to Defendant-Appellee, the Housing Authority of Columbus, Georgia ("Housing Authority"). Talley brought a section 1983 suit, 42 U.S.C. § 1983, against the Housing Authority challenging a state court order that allowed the Housing Authority to seize his property. No reversible has been shown; we affirm.

Talley's section 1983 suit arises from the Housing Authority's condemnation of Talley's property in 1994. Talley alleged that the Housing Authority violated his Fourth, Fifth, and Fourteenth Amendment rights when it unlawfully asserted eminent domain over his private property. At the crux of Talley's claim is his assertion that no "public necessity" – the *sine qua non* of Georgia's power of eminent domain, see Williams v. LaGrange, 98 S.E.2d 617, 620 (Ga. 1957) – supported the condemnation of his property. Talley complains that the Housing Authority asserted eminent domain unlawfully over his property and later sold it to a private citizen at a profit. The Housing Authority moved for

summary judgment, asserting defenses of res judicata, estoppel, laches, and failure to state a claim.

The procedural facts are undisputed. Talley was served as one of several condemnees in a condemnation action in Superior Court of Muscogee County, Georgia. A special master was appointed who awarded $17,500 as the value of the property. The special master's award was made the order and judgment of the Superior Court of Muscogee County on 1 August 1994. Talley filed an appeal of that judgment, but the appeal was dismissed as untimely. Talley filed a motion to set aside the state court condemnation action on 20 June 1997; that motion was denied.

The district court concluded that it lacked subject matter jurisdiction under the Rooker-Feldman doctrine.[1] The Rooker-Feldman doctrine precludes federal courts – other than the United States Supreme Court – from reviewing final judgments of state courts. See Rooker v. Fidelity Trust Co., 44 S.Ct. 149, 150 (1923); [2]D.C. Court of Appeals v. Feldman, 103 S.Ct. 1303, 1311-15 (1983).

---

[1]Although Housing Authority failed to raise the Rooker-Feldman doctrine or to challenge the district court's subject matter jurisdiction, a federal court has an independent obligation to satisfy itself that it has authority to hear a case before it proceeds to the merits. See University of S. Ala. V. American Tobacco Co., 168 F.3d 405, 410 (11th Cir. 1999). That the litigants do not question the court's jurisdiction is of no consequence; "the court must inquire into its jurisdictional

When four criteria are satisfied, Rooker-Feldman bars lower federal court jurisdiction: (1) the party in federal court is the same as the party in state court; (2) the prior state court ruling was a final judgment on the merits; (3) a reasonable opportunity existed for the party seeking a relief in federal court to have raised the federal claims in the state court proceeding; and (4) the issue advanced in federal court was either adjudicated by the state court or was inextricably intertwined with the state court's judgment. Amos v. Glynn County Bd. Of Tax Assessors, 347 F. 3d 1249, 1265 n.11 (11th Cir. 2003).

We conclude, as did the district court, that the Rooker-Feldman criteria are satisfied. Talley and the Housing Authority were both parties to the state court condemnation action. That state court ended in a final judgment on the merits: Talley's property was condemned and the Housing Authority was granted fee simple title to the property. Talley had the opportunity to argue before the Special Master and on appeal to the Superior Court of Muscogee County the issue of public necessity and the claimed violation of his constitutional rights. And the petition for condemnation in the state

---

basis sua sponte." Mirage Resorts, Inc. v. Quiet Nacelle Corp., 206 F.3d 1398, 1401 (11th Cir. 2000).

court proceedings stated that acquisition of the property was necessary to achieve the public purpose of urban redevelopment. See Williams, 98 S.E.2d at 620 ("[t]he underlying and fundamental principle upon which the right to take the property of any private citizen against his will ... by eminent domain is that it is necessary to do so for a public purpose."). So, the issue of whether the property was condemned for a public use necessarily was litigated in the state court condemnation action.

The district court committed no reversible error in concluding that it lacked subject matter jurisdiction to consider Talley's claims.[2]

AFFIRMED.[3]

[2] The district court concluded, alternatively, that principles of res judicata precluded consideration of Talley's claims. We address only the jurisdictional basis for the district court's decision.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 04-14703-FF

LOGIE W. TALLEY,

Plaintiff-Appellant,

Versus

THE HOUSING AUTHORITY OF COLUMBUS, GEORGIA,

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
SEP 15, 2005
THOMAS K KAHN, CLERK

Defendant-Appellee.

On Appeal from the United States District Court for the Middle District of Georgia

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BEFORE: EDMONDSON, Chief Judge, BIRCH and BARKETT, Circuit Judges.

PER CURIAM:

The petition (s) for rehearing filed by the Appellant, Logie W. Talley, is DENIED.

ENTERED FOR THE COURT:

"s/J.L. Edmondson"

Chief Justice

APPENDIX C

(2)

No. 051104

FILED
MAY 25 2006
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

Logie W. Talley,

Petitioner,

v.

The Housing Authority of Columbus, Georgia

Respondent.

On Petition For Writ of Certiorari
To The United States Court of Appeals for the Eleventh Circuit

---

PETITION FOR REHEARING ON BEHALF OF Logie W. Talley, Petitioner

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May 25, 2006

BEST AVAILABLE COPY

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OPINION AND ORDERS BELOW

On April 5, 2006, the Court of Appeals of Georgia ruled that the respondent, the Housing Authority was not entitled to summary judgment on the claim of res judicata or collateral estoppel in 2003, but the respondent was entitled to summary judgment on other grounds. The court's opinion and orders can be found in the appendix.

PETITION FOR REHEARING ON BEHALF

OF LOGIE W. TALLEY, THE PETITIONER

The United States District Court for the District of Georgia Columbus Division and the United States Court of Appeals for the Eleventh Circuit has entered a decision in conflict with the decision of a state Court of Appeals and has decided an important federal question in away that conflicts with a decision by a State Court on the same exact important issue. The same important issue remains to be the lack of subject matter jurisdiction.

The United States District Court for the Middle District of Georgia Columbus Division stated in its order of Summary Judgment in favor of the Housing Authority of Columbus, Georgia, that the District Court lack subject matter jurisdiction of this case under the Rooker-Feldman doctrine.

The United States Court of Appeals for the Eleventh Circuit stated that "The District Court committed no reversible error in concluding that it lacked subject matter jurisdiction to consider Talley's claim".

The Court of Appeals of Georgia concluded that if the Housing Authority of Columbus, Georgia was entitled to summary judgment

on Talley's claim concerning the respondent's alleged abandonment of the public use and sale of the property to a private citizen for a substantial profit in 1999, it must be on some other grounds. That issue could not have been adjudicated, either in the initial condemnation proceeding in 1994 or in the motion to seta aside in 1997. The record shows that although this issue was raised by Talley in Federal Court, his Federal Suit was ultimately dismissed on jurisdictional grounds.

Therefore, the Housing Authority of Columbus, Georgia was not entitled to summary judgment of that claim on grounds of res judicata or collateral estoppel.

The Court of Appeals of Georgia concluded, however, that the respondent was indeed entitled to summary judgment on the claim on other grounds.

The Court of Appeals of Georgia stated the following.

> In accordance with the constitutional amendment, the General Assembly enacted the Urban Redevelopment Law in 1955, and because of the constitutional amendment, our Supreme Court reluctantly sustained the law's constitutionality.
> Kelo v. City of New London has ignited a national debate on the subject of government use of the power of eminent domain by taking private property from one person and selling it to another such person or private enterprise for

> urban redevelopment. Kelo found such taking to be permissible under the Fifth Amendment of the United States Constitution and left it to the states to enact more restrictive condemnation laws if they so chose.
>
> Georgia's nonrestrictive urban redevelopment law and its underlying constitutional authorization remain in place. Therefore, the Housing Authority of Columbus, Georgia was entitled to summary judgment on Talley's complaint that it abandoned any public use of the property and sold it to a private citizen for other uses, as such disposition of condemned property is authorized by the urban redevelopment law.

There was no claim or complaint by the petitioner that the Housing Authority of Columbus, Georgia abandoned any public use of the property and sold it to a private citizen for other uses. The undisputed facts in this case establish that the Housing Authority of Columbus, Georgia never used subject property for public use the fact is the subject property was never used for nothing by the Housing Authority of Columbus, Georgia before it was sold to a private citizen therefore there was nothing for the respondent to have abandoned.

There is no statutory authority under the laws of Georgia that would authorize the selling of public property, acquired by means of eminent domain, to be sold to a private citizen before the subject property space has fulfilled its public use.

According to Justice Whatt of the Georgia Supreme Court, public use may not be utilized as a guise for the acquisitioning of private property for the purpose of reselling the subject property to another private party for private use. Justice Whatt stated the following:

> We know of no cases in Georgia authorizing the power of eminent domain to be used in order to acquire private property for the purpose of being sold to another private person for his own private use. This is exactly what is sought to be done here. See Housing Authority of City of Atlanta, Ga. V. Johnson, S.E. 2d. 891.

As for the recent decision of the United States Supreme Court, the petitioner believes that the Court of Appeals of Georgia, the respondent, and some of the other courts in the State of Georgia have misinterpreted the decision of our United States Supreme Court in the case of Kelo v. City of New London. U.S. (125SC 2655, 162 LE 2d 439) (2005).

CONCLUSION

The petitioner now provides to this court this significant new evidence not considered in this case on May 1, 2006. The fact that the Federal Court ultimately dismissed the petitioner's Federal Law Suit on jurisdictional grounds, and the United States Court of Appeals for the Eleventh Circuit ruled that the District Court

committed no reversible error in concluding that it lacked subject matter jurisdiction to consider Talley's claims.

The Court of Appeals of Georgia ruled that the Housing Authority of Columbus, Georgia was not entitled to summary judgment on that claim on grounds of res judicata or collateral estoppel in 2003. Therefore, the petitioner's claim was not considered by the state or federal courts because of the alleged lack of subject matter jurisdiction to hear his claim. Given all of the facts in this case, this case should have continued in federal court.

Thus, Logie W. Talley, the petitioner, respectfully requests of this court that a rehearing and the petition for Writ of Certiorari be granted.

Respectfully submitted,

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Pro Se Petitioner
Logie W. Talley
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RULE 44.1 CERTIFICATE

Undersigned Pro Se. Petitioner, Logie W. Talley, hereby certifies that the foregoing petition for Rehearing in Logie W. Talley v. The Housing Authority of Columbus, Georgia. No. 051104 is presented in good faith and not for delay.

Logie W. Talley

Logie W. Talley

FOURTH DIVISION
RUFFIN, C. J.
SMITH, P.J., PHIPPS, J.

NOTICE: Motions for reconsideration must be *physically received* in our clerk's office within ten days of the date of decision to be deemed timely filed.
(Court of Appeals Rules 4 and 37, September 5, 2002)
http://www.gaappeals.us/rules/

April 5, 2006

In the Court of Appeals of Georgia

A06A0393. TALLEY v. THE HOUSING AUTHORITY OF COLUMBUS, GEORGIA

PHIPPS, Judge.

In this suit by Logie Talley against the Housing Authority of Columbus, Georgia (HACG), the State Court of Muscogee County granted the HACG's motion for summary judgment. Talley appeals, raising issues concerning Georgian's Urban Redevelopment Law (URL)[1] and the recent decision of the Supreme Court of the United States in *Kelo v. City of New London*.[2] For reasons which follow, we affirm.

APPENDIX

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[1] OCGA § 36-61-1 et seq.

[2] ___ U.S. ___ (125 SC 2655, 161 LE2d 439) (2005).

In 1994, the HACG instituted an in rem condemnation proceeding against a subdivision lot and its owners, Talley and others. In that proceeding, the Superior Court of Muscogee County entered judgment conveying "full, complete and unencumbered fee simple title" to the property to the HACG upon payment into the court registry of $17,500 awarded by the special master to the property owners.

In 2003, Talley instituted this pro se action claiming that the HACG unlawfully took the property in 1994 and demanding its return. Talley also complains that in 1999 the HACG abandoned any public use of the property and sold it to a private citizen for $42,800. The HACG moved for summary judgment on grounds that the question of legality of the taking of Talley's property for a valid public purpose was decided adversely to him in tih initial condemnation action, in a motion to set aside the condemnation judgment filed by Talley and denied by the Superior Court of Muscogee County in 1997, and in a 42 USC § 1983 action filed by Talley against the HACG in federal district court in 2004. The state court granted the motion without explanation.